Dr Nkosazana Dlamini Zuma Local Municipality

BORROWING POLICY

BORROWING POLICY

TABLE OF CONTENTS

1. Purpose 2
2. Objectives 2
3. Scope of the Policy 2
4. Legislative Framework and Delegation of Authority 2
5. Types of Loans 3
6. Other Considerations 5
7. Refinancing Debt 7
8. Debt Repayment Period 6
9. Security 6
10. Overdraft 6
11. Short Term Debt 7
12. Disclosure 7
13. Guarantees 7
14. Approval of Loans by the Municipality 7
15. Provision for Redemption of Loans 9
16. Non-Repayment or Non-Servicing of Loan 9
17. Prohibited Borrowing Practices 8
18. Internal Control 8
19. National Treasury Reporting and Monitoring Requirements 10
20. Other Reporting and Monitoring Requirements 10
21. Municipal Regulations on Debt Disclosure 11
ANNEXURE A: Extract from MFMA 10
Annexure B: Process When borrowing Long Term Loans 15
CHECKLIST 15
22. Council Adoption and date 16

1. Purpose

To establish a borrowing framework policy for the Municipality and set out the objectives, policies, statutory requirements and guidelines for the borrowing of funds.

2. Objectives

2.1 Manage interest rate and credit risk exposure.

2.2 Maintain debt within specified limits and ensure adequate provision for the repayment of debt.

2.3 To ensure compliance with all Legislation and Council policy governing borrowing of funds.

3. Scope of the Policy

The primary goal in the borrowing of funds is to ensure that the funds are obtained at the lowest possible interest rates at minimum risk, within the parameters of authorised borrowings.

3.1 Risk Management: The need to manage interest rate risk, credit risk exposure and to maintain debt within specified limits is the foremost objective of the borrowing policy. To attain this objective, diversification is required to ensure that the Chief Financial Officer prudently manages interest rate and credit risk exposure.

3.2 Cost of Borrowings: The borrowings should be structured to obtain the lowest possible interest rate, on the most advantageous terms and conditions, taking cognisance of borrowing risk constraints, infrastructure needs and the borrowing limits determined by Legislation

3.3 Prudence: Borrowings shall be made with care, skill, prudence and diligence. The standard of prudence to be used shall be the "prudent person" standard and shall be applied in the context of managing overall debt.

Officials are required to adhere to:

written procedures and these guidelines;

exercise due diligence;

prepare all reports timeously;

ensure strict compliance with all Legislation and Council policy.

3.4 Ownership: All loans must be in the name of Dr Nkosazana Dlamini Zuma local municipality.

4. Legislative Framework and Delegation of Authority

The relevant Legislation and regulations in terms of which borrowing decisions are governed is Local Government Municipal Finance Management Act, No 56 of 2003. See Annexure A.

The Municipal Regulations on Debt Disclosure has been promulgated (Government Gazette no. 29966, 15 June 2007) and has been effective from 01 July 2007 for a municipality or municipal entity. *Refer to Annexure A2*, Municipal Finance Management Act: Municipal Regulations on Debt Disclosure.

5. Types of Loans

3.5 Annuity loans

"Annuity" loans are straightforward and uncomplicated. The loan amount, interest rate and repayment period offered by the Financial Institution are fixed. The calculation of the installment payable on an annuity basis is simple and straightforward. Normally with a "vanilla" loan, the installment of the loan will be repaid in equal six monthly installments over the term of the loan. The capital portion of the installment will increase over the duration of the loan, and conversely, the interest charged will decrease over the loan period. Where the interest rate offered by the Financial Institution is on a variable basis, an interest rate swap (IRS) must be taken out, should the Accounting Officer advise as such and Council concurs. An IRS agreement will need to be signed with the party agreeing to accept the variable rate and offer the fixed rate to the municipality. An Interest Rate Swap Agreement must comply with the terms set out by the International Swap Dealers Association (ISDA). The fixing of debt repayments is an important consideration in meeting the legal requirement of the Municipality, that of annually producing a balanced budget, especially where debt servicing comprises a material portion (5%) of the annual operating budget thus necessitating the need for certainty of annual debt payments.

There are from time to time various options offered from Financial Institutions which need to be treated on their merits and which invariably result in slightly lower interest rates being offered. Recent examples include the pledging of a specific income stream, the use of Council owned property as a form of security, etc.

3.6 Structured Finance Loans:

In its simplest form, a structured finance loan is one where the Lender, who is a tax payer, uses certain tax "claims" and effectively passes a portion of this benefit onto the Municipality by way of a reduced interest rate.

The advantage of this type of financing is that the benefits are utilised, giving the borrower a lower interest rate on the loan. The disadvantage is that any amendments in South African tax laws or the underlying assumptions in the financial model determining the structure of the loan will result in changes in the overall interest rate. It must be appreciated that before entering into any structured finance contract the Municipality, being a Statutory body, will carefully scrutinise all aspects of the structured finance loan agreement including seeking legal advice both from the Head : Legal and, where necessary, from Senior Legal Counsel to ensure that the Municipality is not participating in a structure which the South African Revenue Service may deem to be one which leads to tax evasion. The Municipality will always adopt a prudent and carefully evaluated approach before entering into structured finance loan agreements.

The Municipality has not entered into any structured agreements recently, and in view of the tax implications under the present tax regime it is unlikely that it will enter into structured loan agreements in the future.

3.7 Bonds

A Bond is an instrument used by Government and Parastatals such as Telkom, Eskom, Transnet, Corporates and Municipalities to raise loan capital on the open market. Bond holders have the right to interest, usually paid on a semi annual basis, and the repayment of the capital amount reflected on the stock certificate held on maturity date. The coupon, maturity, principal value and market value are intrinsic features of a Bond.

The most critical variable factor in determining Bond rates is the expected long term trend in inflation, in order to provide a return that equals inflation plus a risk premium. The higher the risk attached to a borrower, the higher will be the risk premium investors will demand.

During its tenure the Bond will trade on the Bond market at prevailing interest levels. The price of a Bond trading at any given time on the market is a function of prevailing interest rates. Bond prices move inversely to movements in interest rates.

3.7.1 **Advantages of a Municipal Bond issue are:**

a) A Municipal Bond issue may match the life of the asset being financed. This allows for pay-as-you-use, whereby the ratepayer pays for the use of the asset over the life of the asset.
b) A Municipal Bond issue can take advantage of conditions in the interest rate market. The best example being when short-term rates are higher than long term rates – an inverted yield curve. If all preparations have been taken to enter the market quickly, then a Bond issue with a medium to long term duration could take advantage of short term volatility in the market.
c) If a Municipality establishes a position in the market, it can realize certain benefits. It gives the Issuer a benchmark for further issues. If there are several large maturities that are listed/quoted, it may be possible that a small add-on issue could be put into the market at a lower cost than a new issue.
d) A Municipal Bond issue is an alternative to Bank loans or structured loans. Also, because of the involvement of such parties as Financial Advisors and Underwriters, there should be better understanding and knowledge about interest rates and investor capacity for lending.

3.7.2 **Disadvantages of a Municipal Bond issue are:**

a) The regulatory requirements which must be complied with prior to an issue will take more time to accomplish than the concluding of a Bank loan.
b) The cost of an issue will be more expensive than a Bank loan.

c) There will be more parties to a Bond issue and therefore organizing and implementing such an issue will require greater administration.
d) Because of the public offer nature of a Bond issue, there will be a greater need for continuing information disclosure, and the accuracy of this information will be important in order not to mislead the Investors.
e) There will be a number of Investors rather than one Lender, payment of interest and principal will need to be made to many Lenders, requiring greater administration.

The Municipality has not issued any in the past and is unlikely to do so in the near future considering its current limited revenue generating ability and vast developmental challenges.

For Municipality to issue Bonds, cognizance will have to be taken of the following:

3.8 Liquidity:

Due to the lack of liquidity in Municipal Bonds, it will be necessary for the Bond issue to be significant (in excess of R500million) as an issue of this magnitude will attract interest from the larger institutional investors and would be sufficient to create the necessary liquidity for Muni bonds. It would not be necessary to place the full amount of such an issue at one time so long as the market was assured the full amount of the issue would be placed within a reasonable time frame.

a) Timing

The timing of the issue will be of paramount importance, and, for example, a volatile money market environment shrouded with uncertainty will not be an opportune time to offer a public issue of Municipal Bonds.

b) Financial Advisor

The Financial Advisor will be the professional interface between the Municipality and the financial markets, including the Investors and Underwriters. The Financial Advisor will assist in the preparation of the prospectus.

c) Pricing

The Municipality is currently not rated by credit rating agencies in line with most of the district and local municipalities and thus pricing of a municipal bond issues would be challenge until such time that the Municipality has a public credit rating by a credible rating agency.

In addition, utilization, via a tender appointment process, will be made of a number of participants, including Underwriters and Credit Rating Agencies.

(iv) Use of Internal Funds:

The Municipality from time to time, will use certain of its surplus funds to fund its capital expenditure/investment Programme. The utilization of surplus funds enables the Municipality to reduce its reliance on external debt financing, thereby allowing it to borrow only funds from external sources when favorable market conditions prevail.

6. Other Considerations

The Municipality has by the judicious use of surplus funds and external long term debt implemented its Integrated Development Plan which has facilitated the much needed service delivery program.

Factors to be considered when borrowing:

a) the type and extent of benefits to be obtained from the borrowing.
b) the length of time the benefits will be received.
c) the beneficiaries of the acquisition or development.
d) the impact of interest and redemption payments on both current and forecasted property tax income.
e) the current and future capacity of the property tax base to pay for borrowings and the rate of growth of the property tax base.
f) likely movements in interest rates for variable rate borrowings.
g) other current and projected sources of funds.
h) competing demands for funds.
i) timing of money market interest rate movements and the long term rates on the interest rate curve.

The Municipality will, in general, seek to minimize its dependence on borrowings in order to minimize future revenue committed to debt servicing and redemption charges.

The Municipality may only borrow funds, in terms of the Municipal Finance Management Act, for the purpose of acquiring assets, improving facilities or infrastructure to provide service delivery. Harry Gwala District Municipality's external borrowings have been mainly sourced from the following Institutions:

a) South African Registered Banks
b) Development Bank of Southern Africa Limited
c) International Banks Registered in South Africa

Other potential lenders include:

a) Infrastructure Finance Corporation Limited
b) Public Investment Commissioners
c) South African Registered Life Assurance companies

Municipality may incur long term debt only for the purpose of Capital expenditure on infrastructure, property, plant or equipment to be used for the purpose of achieving the objects of Local Government as set out in section 152 of the Constitution.

7. Refinancing Debt

Section 46 of the Municipal Finance Management Act provides that the Municipality may refinance existing long term debt, if such refinancing is in accordance with the prescribed framework. The Municipality may borrow money for the purpose of refinancing existing long term debt, provided the existing long term debt was lawfully incurred and the refinancing will not extend the term of the debt beyond the useful life of the infrastructure, property, plant or equipment for which the money was originally borrowed. Cognisance must be taken of any early repayment penalty clauses in the initial loan agreement, as part of the financial feasibility assessment.

No loans will be prematurely redeemed unless there is a financial benefit to the Municipality.

8. Debt Repayment Period

Whilst the period for which loan debt may be received will vary from time to time according to the needs of the various Lenders, presently the typical debt repayment period for loans is between ten to twenty years, closely matching the underlying asset lives serviced by the loans.

Cognisance is taken of the useful lives of the underlying assets to be financed by the debt, and, moreover, careful consideration is taken of the interest rates on the interest yield curve. Should it be established that it is cost effective to borrow the funds on a shorter duration (as opposed to the life of the asset) as indicated by the interest yield curve, the loan will be negotiated to optimize the most favorable and cost effective benefit to the Municipality.

9. Security

The Municipal Finance Management Act provides that the Municipality may provide security for any of its debt obligations, including the giving of a lien, pledging, mortgaging or ceding an asset, or giving any other form of collateral. It may cede as security any category of revenue or rights of future revenue. Some Lenders may require the Municipality to agree to restrictions on debt that the Municipality may incur in future until the secured debt is settled.

10. Overdraft

The Municipality has a Bank overdraft facility, which can be utilized as and when required.

11. Short Term Debt

The Municipal Finance Management Act provides that the Municipality may incur short term debt only when necessary to bridge shortfalls within a financial year during which the debt is incurred, in expectation

of specific and realistic anticipated income to be received within that financial year; or capital needs within a financial year, to be repaid from specific funds to be received from enforceable allocations or long term debt commitments.

The Municipality must pay off short term debt within the same financial year and may not renew or refinance its short term debt.

The Municipality may, in terms of the Municipal Finance Management Act, incur short term debt only if the Chief Financial Officer has made a prior written finding that the debt is either within prudential limits on short term debt as previously approved by Municipality, or is necessary due to an emergency that could not reasonably have been foreseen and cannot await Council approval.

12. Disclosure

Any Official involved in the securing of loans by the Municipality must, when interacting with a prospective Lender or when preparing documentation for consideration by a prospective Investor disclose all relevant information that may be requested or that may be material to the decision of the prospective Lender or Investor. Reasonable care must be taken to ensure the accuracy of any information disclosed. Whilst this is a standard and acceptable business practice, it is also in compliance with section 49 of the Municipal Finance Management Act.

13. Guarantees

The Municipal Finance Management Act provides that the Municipality may not guarantee any debt of any entity unless the entity is a Municipal entity under its sole ownership control. The debt must be reflected in the approved business plan of the entity. The guarantee must be authorized by the Municipality. This must be done in the same manner and subject to the same conditions applicable to any other borrowings.
Neither the National nor Provincial Government may guarantee the debt of any Municipality.

14. Approval of Loans by the Municipality

Section 46 of the Municipal Finance Management Act stipulates that the Municipality may incur long-term debt only if a resolution of the Council, signed by the Mayor , has approved the debt agreement and the Accounting Officer has signed the agreement or other document which acknowledges the debt . At least 21 days prior to the meeting of the Council at which approval for the debt is to be considered, the Municipality must make public an information statement setting out particulars of the proposed debt, including the amount of the proposed debt, the purposes for which the debt is to be incurred and particulars of any security to be provided. The Public, the National Treasury and Provincial Treasury must be invited to submit written comments or representations to the council in respect of the proposed debt.
A copy of the information statement must be submitted to Council at least 21 days prior to the meeting to discuss the proposed loan, together with particulars of:

a) the essential repayment terms, including the anticipated debt repayment schedule; and

b) the anticipated total cost in connection with such debt over the repayment period.

Please refer to Annexure D for the processes involved when complying with Section 46 of the Act.

15. Provision for Redemption of Loans

Municipality may borrow from Institutions and set up sinking funds to facilitate loan repayments, especially when the repayment is to be met by a bullet payment on the maturity date of the loan. These sinking funds may also be invested directly with the Lender's Bank. The maturity date and accumulated value of such investment must coincide with the maturity date and amount of the intended loan that is to be repaid. Use can also be made of guaranteed endowment policies to facilitate the payment on maturity date.

16. Non-Repayment or Non-Servicing of Loan

The Municipality must honor all its loan obligations timeously. Failure to effect prompt payment will adversely affect the raising of future loans at favorable costs of borrowing.

Failure to pay any loan installment, even by one day and even if only through administrative oversight, will have severe repercussions, and may jeopardize the Municipality's credit rating.

In addition to the timeous payment of the loans, the Municipality must adhere to the covenants stipulated in the loan agreements and the under mentioned are some examples of typical covenant requirements:

a) furnish audited annual financial statements timeously
b) long term credit rating not to decline below a certain level
c) reporting of material changes in financial position of the Municipality
d) material changes in the functions, power and duties of the Municipality

17. Prohibited Borrowing Practices

In the past some municipalities have borrowed funds with the sole purpose of investing them to earn a return. The motive was clearly speculative. The cost of debt is almost always more expensive than the return that the Municipality can derive by investing in permitted investments. Consequently, as a principle, the Municipality does not borrow for investment purposes, but depending on the shape of the interest yield curve may borrow in advance of its capital cash flow needs in a given financial year to take advantage of an inverse interest yield curve.

Foreign Borrowing is permitted in terms of section 47 of the Municipal Finance Management Act, whereby the debt is denominated in Rand and is not indexed to, or affected by, fluctuations in the value of the Rand against any foreign currency

18. Internal Control

The internal control procedures involve Internal Audit and Performance Management, and the Auditor

General reviewing and testing the systems of the Finance Department on a regular basis. In order to prevent losses arising from fraud, misrepresentations, error, conflict of interest or imprudent action, a system of internal controls governs the administration and management of the portfolio.

Controls deemed most important include:

a) Control of collusion, separation of duties.
b) Custodial safekeeping of loan agreements and contracts.
c) Clear delegation of duties.
d) Checking and verification by senior officials of all transactions.
e) Documentation of transactions and repayments.
f) Code of ethics and standards.
g) Procedure manuals.
h) Electronic Funds Transfer limits and a detailed procedure manual for the system.

19. National Treasury Reporting and Monitoring Requirements

The Municipality submits numerous returns to National Treasury. It is mainly coordinated by the Accounting Division. One such report deals with the Municipality's external interest paid each month. Another return, prepared on a quarterly basis, requires the Municipality to itemize all its external borrowings for the quarter ended.

20. Other Reporting and Monitoring Requirements

Regular reporting mechanisms are in place in order to access the borrowings portfolio and to ensure compliance with policy objectives, guidelines and applicable laws.

Monthly Activities	Internal	Exco	Province	National Treasury	Reserve Bank
• Reconciliation of bank accounts	√				
• Payment requisition verification and authorisation	√				
• South African Reserve Bank returns (Stock Loans)					√
• Comparison of actual payment to budget	√				
• Update records for draws	√				
• Maintain schedule of payment dates and amounts	√				
• National Treasury Cash Flow return				√	
• Analysis of Ratios	√				
• Loan repayments are made by Electronic Fund Transfer (EFT)	√				
• Scrutiny of loan agreements to ensure compliance with loan	√				

Quarterly Activities	Internal	Exco	Province	National Treasury	Reserve Bank
• National Treasury Borrowings return				√	
• Restructure Grant input			√	√	

• Summary Debt Schedule for Exco report		√			

General Activities	Internal	Exco	Province	National Treasury	Reserve Bank
• Payment to Bond holders only after receipt of original stock certificates	√				
• Report actual borrowings (in compliance with Section 71 of the Municipal Finance Management Act) to the mayor and Provincial Treasury		√	√		

Annual Activities	Internal	Exco	Province	National Treasury	Reserve Bank
• Preparation of Annual Budget	√				
• Preparation of Annual Cash Flow Forecast	√				
• Preparation of Annual Approximates / Estimates	√				
• Preparation of Annual Financial Statements	√				
• Confirmation of Lender balances at financial year end obtaining written certification of loan balances at year end	√				
• Completion of credit rating questionnaire	√				
• Regular reviews by Internal Audit and Performance Management and Auditor General	√				

21. Municipal Regulations on Debt Disclosure

The Municipal Regulations on Debt Disclosure has been promulgated (Government Gazette no. 29966, 15 June 2007) and has been effective from 01 July 2007 for a municipality or municipal entity. Refer to **Annexure A**, Municipal Finance Management Act: Municipal Regulations on Debt Disclosure.

The implementation of the regulations will help to strengthen the level of confidence in municipal fiscal affairs and enable the capital markets to effectively participate by providing access to a range of competitive funding instruments for the provision of municipal infrastructure and other capital development in accordance with section 46 of the Municipal Finance Management Act.

ANNEXURE A: Extract from MFMA

LOCAL GOVERNMENT MUNICIPAL FINANCE MANAGEMENT ACT NO 56 OF 2003

CHAPTER 6: DEBT

SHORT-TERM DEBT

45(1) A municipality may incur short-term debt only in accordance with and subject to the provisions of this Act. A municipality may incur short-term debt only when necessary to bridge -
(a) shortfalls within a financial year during which the debt is incurred, in expectation of specific and realistic anticipated income to be received within that financial year; or

(b) capital needs within a financial year, to be repaid from specific funds to be received from enforceable allocations or long-term debt commitments.

(2) A municipality may incur short term debt only if -
a resolution of the municipal council, signed by the mayor , has approved the debt agreement : and the accounting officer has signed the agreement or other document which creates or acknowledges the debt .

(3) For the purpose of subsection (2) (a.) a municipal council may -

approve a short term debt individually ; or
approve an agreement with a lender for a short-term credit facility to be accessed as and when required , including a line of credit or bank overdraft facility , provided that –

(i) the credit limit must be specified in the resolution of the council ;
(ii) the terms of agreement , including the credit limit , may be changed only by a resolution of the council ; and
(iii) if the council approves a credit facility that is limited to emergency use , the accounting office must notify the council in writing as soon as practical of the amount , duration and any debt incurred in

terms of such a credit facility , as well as options for repaying such debt.

(4) A municipality -
must pay off short-term debt within the financial year ; and may not renew or refinance short-term debt , whether its own debt or that of any other entity, where such renewal or refinancing will have the effect of extending the short-term debt into a new financial year.
(5)(a) No lender may willfully extend credit to a municipality for the purpose of renewing or refinancing short-term debt that must be paid off in terms of subsection (4)(a).
if a lender willfully extends credit to a municipality in contravention of paragraph (a), the municipality is not bound to repay the loan or interest on the loan .

(6) Subsection (5) (b) does not apply if the lender -

(a) relied in good faith on written representations of the municipality as to the purpose of the borrowing; and
(b) did not know and had no reason to believe that the borrowing was for the purpose of renewing or refinancing short-term debt.

LONG-TERM DEBT
46. (1) A municipality may incur long-term debt only in accordance with and subject to any applicable provisions of this Act, including section 19, and only for the purpose of-

(a) capital expenditure on property, plant or equipment to be used for the purpose of achieving the objects of local government as set out in section 152 of the Constitution, including costs referred to in subsection (4) ; or

(b) re-financing existing long-term debt subject to subsection (5).

A municipality may incur long-term debt only if -
(a) a resolution of the municipal council, signed by the mayor, has approved the debt agreement; and
(b) the accounting officer has signed the agreement or other document which creates or acknowledges the debt.

(3) A municipality may incur long-term debt only if the accounting officer of the municipality-
has in accordance with subsection 21A of the Municipal Systems Act-

at least 21 days prior to the meeting of the council at which approval for the debt is to be considered, made public an information statement setting out particulars of the

proposed debt, including the amount of the proposed debt, the purposes for which the debt is to be incurred and particulars of any security to be provided; and

(ii) invited the public, the National Treasury and the relevant provincial treasury to submit written comments or representations to the council in respect of the proposed debt; and

(b) has submitted a copy of the information statement to the municipal council at least 21 days prior to the meeting of the council, together with particulars of -

(i) the essential repayment terms, including the anticipated debt repayment schedule; and

(ii) the anticipated total cost in connection with such debt over the repayment period.

Capital expenditure contemplated in subsection (1)(a) may include -

financing costs, including -

(i) capitalized interest for a reasonable initial period;

(ii) costs associated with security arrangements in accordance with section 48;

(iii) discounts and fees in connection with the financing;

(iv) fees for legal, financial, advisory, trustee, credit rating and other services directly connected to the financing; and

(v) costs connected to the sale or placement of debt, and costs for printing and publication directly connected to the financing costs of professional services directly related to the capital expenditure; and

(c) such other costs as may be prescribed.

(5) A municipality may borrow money for the purpose of re-financing existing long-term debt, provided -

(a) the existing long-term debt was lawfully incurred;

(b) the re-financing does not extend the term of the debt beyond the useful life of the property, plant or equipment for which the money was originally borrowed;

(c) the net present value of projected future payments (including principal and interest payments) after re-

financing is less than the net present value of projected future payments before re-financing and

(d) the discount rate used in projecting net present value referred to in paragraph (c), and any assumptions in connection with the calculations, must be reasonable and in accordance with criteria set out in a framework that may be prescribed.

(6) A municipality's long-term debt must be consistent with its capital budget referred to in section 17(2).

CONDITIONS APPLYING TO BOTH SHORT-TERM AND LONG-TERM DEBT

47.A municipality may incur debt only if -

(a) the debt is denominated in Rand and is not indexed to, or affected by, fluctuations in the value the Rand against any foreign currency;

(b) section 48 (3) has been complied with, if security is to be provided by the municipality

SECURITY

48. (1) A municipality may, by resolution of its council, provide security for -

(a) any of its debt obligations;

(b) any debt obligations of a municipal entity under its sole control; or

(c) contractual obligations of the municipality undertaken in connection with capital expenditure by other persons on property, plant or equipment to be used by the municipality or such other person for the purpose of achieving the objects of local government in terms of section 152 of the Constitution.

(2) A municipality may in terms of subsection (1) provide any appropriate security including by -
(a) having a lien on, or pledging, mortgaging, ceding or otherwise hypothecating an asset or right, or giving any other form of collateral;
(b) undertaking to effect payment directly from money or sources that may become available and to authorize the lender or investor direct access to such sources to ensure payment of the secured debt or performance of the secured obligations, but this form of security may not affect compliance with section 8 (2)

(c) undertaking to deposit funds with the lender, investor or third party as security;

(d) agreeing to specific payment mechanisms or procedures to ensure exclusive or dedicated payment to lenders or investors, including revenue intercepts, payments into dedicated accounts or other payment mechanisms or procedures;

(e) ceding as security any category of revenue or rights for future revenue;

(f) undertaking to have disputes resolved through mediation, arbitration or other dispute resolution mechanisms;

(g) undertaking to retain revenues or specific charges, fees, tariffs or funds at a particular level or at a level sufficient to meet its financial obligations;

(h) undertaking to make provision in its budgets for the payment of its financial obligations, including capital and interest;

(i) agreeing to restrictions on debt that the municipality may incur in future until the secured debt is settled or the secured obligations are met; and

(j) agreeing to such other arrangements as the municipality may consider necessary and prudent.

(3) A council resolution authorising the provision of security in terms of subsection (2)(a) -

(a) must determine whether the asset or right with respect to which the security is provided, is necessary for providing the minimum level of basic municipal services; and

(b) if so, must indicate the matter in which the availability of the asset or right for provision of that minimum level of basic municipal services will be protected.

(4) If the resolution has determined that the asset or right is necessary for providing the minimum level of basic municipal services, neither the party to whom the municipal security is provided, nor any successor or assignee of such party, may, in the event of a default by the municipality, deal with asset or right in a manner that would preclude or impede the continuation of that minimum level of basic municipal services.

(5) A determination in terms of subsection (3) that an asset or right is not necessary for providing the minimum level of basic municipal services is binding on the municipality until the secured debt has been paid in full or the secured obligations have been performed in full, as the case may be.

DISCLOSURE

49. (1) Any person involved in the borrowing of money by a municipality must, when interacting with a prospective lender or when preparing documentation for consideration by a prospective investor -
(i) disclose all information in that person's possession or within that person's knowledge that may be material to the decision of that prospective lender or investor; and

(ii) take reasonable care to ensure the accuracy of any information disclosed.

(2) A lender or investor may rely on written representations of the municipality, if the lender or investor did not know and had no reason to believe that those representations were false or misleading.

MUNICIPAL GUARANTEES

50.A municipality may not issue any guarantee for any commitment or debt of any organ of state or person, except on the following conditions :

(a) The guarantee must be within limits specified in the municipality's approved budget:

(b) a municipality may guarantee the debt of a municipal entity under its sole control only if the guarantee is authorized by the council in the same manner and subject to the same conditions applicable to a municipality in terms of this Chapter if it incurs debt

(c) a municipality may guarantee the debt of a municipal entity under its shared control or of any other person, but only with the approval of the National Treasury, and then only if-

i. the municipality creates, and maintains for the duration of the guarantee, a cash-backed reserve equal to its total potential financial exposure as a result of such guarantee; or
ii. the municipality purchases and maintains in effect for the duration of the guarantee, a policy of insurance issued by a registered insurer, which covers the full amount of the municipality's potential financial exposure as a result of such guarantee.

NATIONAL AND PROVINCIAL GUARANTEES

51. Neither the national nor a provincial government may guarantee the debt of a municipality or municipal entity except to the extent that Chapter 8 of the Public/New Finance Management Act provides for such

guarantees.

CHAPTER 8: RESPONSIBILITIES OF MUNICIPAL OFFICERS REPORTS AND REPORTABLE MATTERS

MONTHLY BUDGET STATEMENTS

71.(1)The accounting officer of a municipality must no later than 10 working days after the end of each month submit to the mayor of the municipality and the relevant provincial treasury a statement in the prescribed format on the state of the municipality's budget reflecting the following particulars for that month and for the financial year up to end of that month:

a) Actual revenue, per revenue source;

b) actual borrowing

c) actual expenditure, per vote

d) actual capital expenditure, per vote

e) the amount of any allocations received

Annexure B: Process when borrowing Long Term Loans

CHECKLIST

Preparation for Advert

Issue of invitation (advertisement)

Date for quoting of rates

Deadline for receipt of proposals

Shortlisting of proposals

Discussions on presentations by shortlisted lenders

Preliminary Council report

Preliminary Council Approval

Investment Department Checklist

* letter of National Treasury	
* letter of MEC Finance KZN	
* Public Information statement	
⇒ Community radio/ Newspaper advert	
⇒ City Hall Notice Boards	
⇒ Regional / satellite offices – notice boards	
⇒ Libraries – notice boards	
⇒ Website – Internet and Intranet	

Public Notices, website info, and press advert
Remove Notices, website info etc.

MANCO approval of Final Recommendation
Council Final Approval
Mayor to sign Council Resolution
Fix Rate
City Manager to sign Loan Agreement
Certificate to National Treasury
Drawdown/s

22. COUNCIL APPROVAL AND EFFECTIVE DATE

Approval of Policy by Council and Effective date: ----------

MUNICIPAL MANAGER DATE

…….. ……..